THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.19994 of 2005

12.9.2005

Between:

Lingu Ram, S/o.Bhojanna, II Class Civil Contractor,

Bhoiegalli, Bhinsa, Adilabad District.

… Petitioner.

AND

1. The Election Officer & Commissioner of Bhinsa Municipality,

and others

… Respondents.

ORDER:

The petitioner filed his nomination for Ward No.20 of Bhainsa Municipality. His nomination was rejected on the ground that he is a subsisting contractor and therefore incurs disqualification under Section 15(2)(c) of A.P.Municipalities Act, 1965. Aggrieved by the rejection of nomination, the present writ petition is filed.

The learned Counsel for the petitioner contends that even before the petitioner submitted a representation to the Municipal Commissioner, Bhainsa Municipality to cancel the registration as contractor and that as per the decision of the Supreme Court in **Aslhing v. L.S.John** the moment a contractor serves notice requesting cancellation, the disqualification of being a contractor would not operate such contractor. This Court has perused the judgment of the Supreme Court and it is of no avail to the petitioner. Be that as it is, as rightly contended by the learned Standing Counsel for Municipalities that when the nomination is rejected, even if such rejection is improper, a writ petition would not lie.

I n **V.Narayana v. Election Officer, Alwal Municipality** (**Narayana**, for brevity), this Court has held that when a nomination is rejected, a writ petition would not lie. It was held therein that challenge to election means and includes a challenge to any intermediary stage in the election and that when the nomination is rejected or accepted improperly, the same has to be agitated by way of Election Petition. The decision in **Narayana** was followed by Full Benches of this Court in **A.P.Sarpanchas Association v Govt. of A.P.** and **G.Kanaka Durga v State Election Commissioner**. Further in **C.Subrahmanyam v K.Ramanjaneyulu**, the Supreme Court held that even if the election is challenged on the ground of non-compliance of the provisions of the A.P. Panchayat Raj Act, 1994 or Conduct of Election Rules, 1961, the writ petition would not be maintainable and it is only by way of Election Petition that such thing can be challenged. In view of the settled

position, this writ petition is not maintainable.

The writ petition is, accordingly, dismissed. No costs.

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(**V.V.S.RAO,J**)

September 12, 2005.

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